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UNCLAS SECTION 01 OF 02 ANKARA 005811

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SUBJECT: MORE ON ENRON BOT "TRIAL BALLOON"

REF: ANKARA 5646

¶11. Summary: ENRON's report of a GOT trial balloon to resolve the dispute between BOT operator Trakya (Enron) and the GOT (reftel) appears to have been overly optimistic. Yusuf Gunay, President of the Energy Market Regulatory Authority (EMRA), told us he had not heard of the proposal, while Energy Ministry U/S Sami Demirbilek sidestepped the issue. Nevertheless, Gunay pledged to allow the Enron-invested company Trakya, along with other BOT projects, to continue operating without a new license and Demirbilek urged Enron/Trakya to initiate negotiations. Bottom line) the situation is likely to remain confused until Enron/Trakya and the Energy Ministry start talking. End Summary.

¶12. In an effort to promote resolution of the dispute between BOT operators Trakya (Enron) and Doga (Edison Mission) and the GOT, EconCoun met with EMRA President Gunay and Energy Ministry U/S Demirbilek. Specifically, we were following up on the report by Enron Global Assets Vice President Lloyd Wantschek (reftel) that EMRA had floated a &trial balloon8 proposal that appeared to address Enron/Trakya,s interests.

¶13. EMRA President Gunay noted that although the September 1 deadline had passed for receiving new operating licenses, EMRA did not intend to take any action to stop the BOTs from continuing to operate. In fact, he had indefinitely extended the deadline. Gunay described Trakya,s contract as &an acquired right,8 and noted that actions that could be perceived as breaking the contract would harm Turkey,s efforts to bolster its image in the international financial community and its desire to attract more FDI into the energy sector. Gunay said his primary goal as head of EMRA was to move toward a system in which power sales are made in a competitive market.

¶14. Energy Ministry U/S Demirbilek did not help much to clarify the situation. Demirbelik was aware of some aspects of the proposal mentioned by Enron rep Wantschek, but he did not indicate that any GOT proposal was on the table. He told us that he had recently spoken with Wantschek, who offered the GOT an immediate buyout for \$300 million. Demirbilek told us that he did not reject the idea completely but considered the Enron proposal an opening position in a more lengthy process to reach a solution.

¶15. Demirbilek said his top priority was to lower the retail price of electricity in Turkey. He noted that the electricity produced by Trakya was among the most expensive; therefore, reducing Trakya,s sales price was a high priority. He offered that the Ministry would be willing to significantly lower the input costs for Trakya in exchange for Trakya concessions on the price the GOT must pay for the electricity. Specifically, the government expected to be able to lower the price of natural gas by as much as 30-35% and was also willing to reduce the capacity fee charged to connect to the Turkish grid. Demirbilek urged Enron to make an explicit offer) either in writing, or in a meeting with Energy Minister Guler, which he would arrange. It is also noteworthy that Demirbilek emphasized that the Ministry was not talking to DOGA, the other U.S. BOT. (The Ministry claims that Doga may have violated its contract and is investigating.)

¶16. When we pressed him on Enron/Trakya,s desire to receive a license extension before inking a new deal, Demirbilek was

evasive, suggesting instead that EMRA could offer a letter guaranteeing the license extension after negotiations are completed.

¶7. Wantschek also updated us on the U.S. companies' legal battle over whether existing operators are required to apply for new operating licenses under the Electricity Law. He said the energy division of the Danistay (Council of State) had initially ruled that a) the companies were bound by the requirement, and b) the case should not go to the Constitutional Court, which the companies had requested. The full Danistay is expected to review the case in the near future.

¶8. Comment: Demirbilek appears willing to negotiate a resolution, if a deal can help him reduce domestic electricity prices, but complained that the companies had "accused" the Ministry of heavy-handed tactics when that in fact was not the case. EMRA is more sympathetic) and is prepared to allow Trakya to continue operating without approving a new license, but we doubt that Gunay will be willing to grant a new license or license extension without the endorsement of the Energy Ministry. Doing so without the Ministry's explicit blessing would open him to criticism that he is siding with foreigners and condemning Energy Minister Guler's efforts to lower prices. Embassy will remain in contact with Traakya and Doga and seek to facilitate a more constructive dialogue between the companies and both EMRA and the Energy Ministry. End Comment.

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